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March 12, 2013

To: Supervisor Mark Ridley-Thomas, Chairman
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From: William T Fujioka
Chief Executive Officer

SACRAMENTO UPDATE - 2011 PUBLIC SAFETY REALIGNMENT LEGISLATION

Executive Summary

This memorandum is to provide the Board a report on: 1) County advocacy efforts in Sacramento on legislation related to AB 109, the 2011 Public Safety Realignment; and 2) an overview of 23 bills of interest to the County introduced by the Legislature.

Overview

Since implementation of AB 109, the 2011 Public Safety Realignment, members of the Legislature have expressed concerns over the impact of the legislation, which shifted responsibility for the supervision and incarceration of certain low level offenders from the State to counties. As a result, a number of bills have been introduced in both houses that seek to amend, clarify or repeal portions of AB 109 of 2011.

As previously reported, the Brown Administration has been reluctant to consider measures that alter provisions of AB 109 which would shift a potentially sizeable number of individuals back to State supervision. Major changes to the realignment structure may be considered a reversal of the intent of the legislation and, as a result, the Administration would not likely be receptive to such amendments.

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This office will continue to work closely with affected County departments to provide reports on AB 109-related legislation and will keep the Board apprised of significant legislative developments of County interest related to this issue.

County-Advocacy Legislation

This office and the Sacramento advocates continue to actively pursue the following legislation pursuant to Board-approved policy related to AB 109:

County-sponsored AB 1065 (Holden), which as introduced on February 22, 2013, would require that a person released from State prison who has served a previous prison term for which he or she was certified as a Mentally Disordered Offender, or Mentally Disordered Sex Offender, be subject to parole supervision and to the court in the county in which the parolee is released. AB 1065 is currently pending referral to committee.

County-supported AB 287 (Walters), which as introduced on February 14, 2013, would prohibit any person released from State prison who has a prior conviction for a serious or violent felony, a crime for which the person received a third strike, or a crime that resulted in the person being classified as a High Risk Sex Offender, from being released to Post-Release Community Supervision pursuant to AB 109. AB 287 is currently pending hearing in the Senate Public Safety Committee.

Legislation of County Interest

This office is working with impacted departments to analyze bills affecting the County. Based on our initial review of the bills introduced by the February 22, 2013 deadline, we have identified the following 23 bills of County interest:

Custody and Alternatives to Custody

AB 624 (Mitchell), which as introduced on February 20, 2013, would authorize a sheriff, in addition to the credits otherwise earned pursuant to existing law, to award a prisoner program credit reductions from his or her term of confinement for successful completion of specific program performance objectives for rehabilitative programming, including academic programs, vocational programs, vocational training, substance abuse programs, and core programs such as anger management and social life skills. These program credit reductions may be for one to six weeks and may be forfeited in the same manner as other program credit reductions. AB 624 is currently pending hearing in the Assembly Public Safety Committee.

AB 752 (Jones-Sawyer), which as introduced on February 21, 2013, would make a change to the work furlough program provisions, as described in existing law, and would authorize a person sentenced to county jail for a felony to participate in a work furlough program. AB 752 is currently pending hearing in the Assembly Public Safety Committee.

SB 188 (Liu), which as introduced on February 6, 2013, would require the State Department of Corrections and Rehabilitation to utilize inmates and wards assigned to conservation camps in performing fire prevention, fire control, and other work of the Department of Forestry and Fire Protection, and would authorize the departments to enter into contracts and cooperative agreements for the performance of these conservation projects. The bill would also authorize a county sheriff to utilize inmates assigned to county conservation camps in performing fire prevention, fire suppression and control, and other work as may be assigned by the sheriff. The bill would additionally authorize the establishment of a conservation camp and would permit an industrial farm, industrial road camp, or conservation camp to be operated by the sheriff or the director of the county department of corrections, or to be operated as an entity separate from the county jail administered by a superintendent. SB 188 is currently pending hearing in the Senate Public Safety and Rules Committees.

Post-Release Community Supervision and Parole

AB 15 (Bradford), which as introduced on December 3, 2012, would require the State Department of Corrections and Rehabilitation, not less than 45 days prior to the release of an inmate to parole or Post-Release Community Supervision, or as soon as practicable, to notify the local law enforcement agency of the jurisdiction to which the inmate is to be released. AB 15 is currently pending hearing in the Assembly Public Safety Committee.

AB 63 (Patterson), which as amended on February 19, 2013, would provide that the unauthorized removal of an electronic, global positioning system (GPS), or other monitoring device affixed as a condition of Post-Release Community Supervision (PRCS) or parole is an offense punishable by imprisonment in county jail for not more than one year, or in State prison for 16 months, two years, or three years. This bill would also provide that a person on PRCS or parole who is ordered pursuant to a revocation hearing to serve a term of imprisonment, incarceration, or confinement for violating the conditions of release, when the violation was based on the removal or disabling of an electronic, GPS, or other monitoring device, and the person has not been prosecuted for that conduct, shall serve that term in State prison. AB 63 is currently pending hearing in the Assembly Public Safety Committee.

AB 68 (Maienschein), which as amended on February 26, 2013, would require the State Department of Corrections and Rehabilitation to give notice of any medical parole hearing and any medical parole release to the county of commitment, the county of last legal residence, and the county of proposed release, at least 30 days prior to a medical parole hearing or a medical parole release. This bill would require that the notice include pertinent information regarding the inmate, including his or her plan for residency and medical care. AB 68 is scheduled for hearing in the Assembly Public Safety Committee on March 19, 2013.

AB 723 (Quirk), which as introduced on February 21, 2013, would allow a person on PRCS who has a revocation petition filed against him or her to file an application for bail with the superior court. The bill would provide that bail pending revocation of PRCS is a matter within the sole discretion of the court. The bill would require a bail application to be governed by existing law for the taking of bail. AB 723 is currently pending hearing in the Assembly Public Safety Committee.

AB 884 (Bonilla), which as introduced on February 22, 2013, would allow a county board of parole to release a prisoner on county parole pursuant to existing law for a term not to exceed four years instead of two years. AB 884 is currently pending referral to committee.

AB 986 (Bradford), which as introduced on February 22, 2013, would permit flash incarceration of persons on PRCS in a city jail pursuant to existing law governing the imposition of flash incarceration. AB 986 is currently pending referral to committee.

AB 1238 (Weber), which as introduced on February 22, 2013, would require the State Department of Corrections and Rehabilitation to establish up to five reentry work training programs for parolees between 18 and 24 years of age to assist in community reintegration upon discharge from prison. The reentry programs would include construction training, academic services, counseling and mentoring, and tracking of graduates after completion of the program. AB 1238 is currently pending referral to committee.

SB 57 (Lieu and Rubio), which as amended on February 11, 2013, would provide that the unauthorized removal, as specified, of an electronic, GPS, or other monitoring device affixed as a condition of parole or PRCS is an offense punishable by imprisonment in State prison for 16 months, two years, or three years. SB 57 is currently pending in the Senate Committee on Rules.

SB 710 (Nielsen), which as introduced on February 22, 2013, would require all offenders released from prison on and after January 1, 2014, to be subject to parole

supervision by the State Department of Corrections and Rehabilitation and the Board of Parole Hearings (BPH) for a minimum period of three years. The bill would require the BPH to have exclusive jurisdiction over the supervision and revocation of parole of all inmates upon their release from prison. The bill would also require the State Department of Corrections and Rehabilitation to develop a minimum of three parole violator adjustment and rehabilitation facilities and would require that parolees who violate the conditions of parole shall be sentenced up to one year in such a facility. SB 710 is currently pending referral to committee.

Sentencing

AB 222 (Cooley), which as introduced on February 4, 2013, would require an executed sentence to be punished in State prison if the defendant is convicted of a crime for which an enhancement is imposed regarding violation of, or of a conspiracy to violate, specified provisions of law with respect to a substance containing heroin, cocaine base, cocaine, methamphetamine, amphetamine, or phencyclidine and its analogs, if the substance exceeds a specified weight. AB 222 is currently pending hearing in the Assembly Public Safety Committee.

AB 560 (Ammiano), which as amended on March 7, 2013, would require a court to suspend execution of the concluding portion of a sentence in county jail pursuant to Penal Code Section 1170 (h) as amended by AB 109 of 2011 for at least six months, during which time the person would be subject to mandatory supervision. AB 560 is currently pending hearing in in the Assembly Public Safety Committee.

SB 225 (Emmerson), which as introduced on February 11, 2013, would require a sentence to be served in State prison when the defendant is convicted of a felony otherwise punishable in a county jail and is sentenced to more than three years. SB 225 is currently pending hearing in the Senate Public Safety Committee.

SB 226 (Emmerson), which as introduced on February 11, 2013, would require a court, upon conviction of a defendant for certain specified offenses involving force or serious bodily injury, or involving the threat of force or violence likely to produce substantial physical harm, that is punishable as a felony by imprisonment in a county jail, if the court has reason to believe the defendant has a severe mental disorder, to suspend the imposition of the sentence and transport the defendant to the Department of Corrections and Rehabilitation for evaluation to determine whether the defendant has a severe mental disorder and whether the severe mental disorder was an aggravating factor in the prisoner's criminal behavior. If the initial evaluation determines the defendant has a severe mental disorder, the bill would require the court to impose a sentence for the term described in the underlying offense to be served in State prison, and would provide

that the defendant be subject to parole supervision upon completion of the sentence. If the initial evaluation determines the defendant does not have a severe mental disorder, the bill would require the defendant to be returned to court for sentencing to imprisonment in a county jail. SB 226 is currently pending hearing in the Senate Public Safety Committee.

SB 706 (Correa), which as introduced on February 22, 2013, would require an individual released from a county jail after serving part or all of a sentence for a felony to be placed on Community Reintegration and Transitional Status for a period of 12 months. The bill would prohibit an individual person on this status from being returned to county jail or subject to any revocation process unless he or she is arrested or convicted of a new offense. The bill would make the individual subject to search or seizure by a peace officer at any time of the day or night, with or without a warrant, and with or without cause. SB 706 is currently pending referral to committee.

SB 708 (Nielsen), which as introduced on February 22, 2013, would require a sentence to be served in State prison when the defendant is convicted of a felony and has three or more prior felony convictions. SB 708 is currently pending referral to committee.

Sex Offenders

AB 2 (Morrell), which as introduced on December 3, 2012, would provide that any criminal defendant who is released on parole or to PRCS who has suffered a prior or current felony requiring registration as a sex offender, and who violates that parole or PRCS by violating the requirement to register as a sex offender, shall serve any period of incarceration ordered for that violation in State prison. AB 2 failed passage in the Assembly Public Safety Committee on March 12, 2013. Reconsideration was granted.

AB 605 (Linder), which as introduced on February 20, 2013, would provide that any criminal defendant who is released on parole or to PRCS, who has suffered a prior or current felony requiring registration as a sex offender, and who violates that parole or PRCS shall serve any period of incarceration ordered for that violation in State prison. AB 605 is currently pending hearing in the Assembly Public Safety Committee.

AB 1334 (Conway), which as introduced on February 22, 2013, would require any person who has been released after serving a term for an offense for which the person is required to register as a sex offender be subject to parole supervision by the State Department of Corrections and Rehabilitation. The bill would also require that a person released from State prison who has a prior conviction or juvenile adjudication for which the person is required to register as a sex offender be subject to parole supervision by the State Department of Corrections and Rehabilitation and the

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jurisdiction of the court in the county in which the person is released or resides. AB 1334 is currently pending referral to committee.

Other AB 109 Related Legislation

SB 144 (Cannella), which as introduced on January 30, 2013, would establish the Realignment Reinvestment Fund in the State Treasury and require the Director of Finance, in consultation with the Legislative Analyst, to annually calculate the net savings to the State for the prior fiscal year and an estimate of the net current fiscal year savings resulting from the 2011 Public Safety Realignment legislation. The bill would require the State Controller to transfer \$819.8 billion from the State General Fund to the Realignment Reinvestment Fund for FY 2013-14 and would, beginning in FY 2014-15, and each fiscal year thereafter, require the State Controller to transfer an amount equal to the estimate of net current fiscal year savings resulting from the 2011 Public Safety Realignment legislation, adjusted by the difference between the preceding year's estimate and the calculated prior fiscal year net savings. The bill would require the State Controller to annually allocate the money in the Realignment Reinvestment Fund to each county for deposit in the county's Realignment Reinvestment Services Account, based on the average daily population of realigned offenders under each county's supervision for the preceding fiscal year. The bill would also require the State Controller to consult with the Board of State and Community Corrections to determine the average daily population for each county. SB 144 is currently pending hearing in the Senate Public Safety Committee.

SB 199 (De León), which as introduced on February 7, 2013, would add a rank-and-file deputy sheriff or a rank-and-file police officer, and a rank-and-file probation officer or a deputy probation officer, each to be appointed by a local labor organization, to the membership of a Community Corrections Partnership. The bill would require the vote of the rank-and-file deputy sheriff or rank-and-file police officer, and the rank-and-file probation officer or a deputy probation officer, on the local plan. SB 199 is currently pending hearing in the Senate Public Safety Committee.

We will continue to keep you advised.

WTF:RA
MR:KA:ma

c: All Department Heads
Legislative Strategist